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7 ERIC ROJAS,  
8 Plaintiff,  
9 v.  
10 GUILLERMO ROBLES, et al.,  
11 Defendants.

12 Case No. 21-cv-05470-JSC

13 **PRETRIAL ORDER NO. 1**

14 Following the Initial Case Management Conference held on June 23, 2022, IT IS

15 ORDERED THAT:

16 **I. CASE MANAGEMENT SCHEDULE**

17 Deadline to Move to Amend Pleadings: August 31, 2022  
18 Fact Discovery Cut-Off: June 16, 2023  
19 Expert Witness Disclosures: July 21, 2023  
20 Expert Discovery Cutoff: September 15, 2023  
21 Deadline for Hearing Dispositive Motions: December 14, 2023

22 The parties are referred to a randomly-assigned Magistrate Judge for a settlement  
23 conference to occur as soon as is convenient to the Magistrate Judge but after Plaintiff conducts  
24 its site inspection. All discovery is stayed, except for Plaintiff's site inspection, until the  
25 Magistrate Judge settlement conference in light of the parties' representations that the only  
26 discovery necessary for a meaningful settlement conference is Plaintiff's site inspection. The  
27 Court expects that the General Order 56 disclosures have been made, and that Defendants have  
28 produced the surveillance video referred to in the joint statement.

1           A further Case Management Conference is scheduled for November 3, 2022 at 1:30 p.m.  
2 via Zoom video. An updated Joint Case Management Conference Statement is due October 27,  
3 2022.

4           **II. TRIAL DATE**

5           A.       Jury trial will begin on January 29, 2024, at 8:30 a.m., in Courtroom 8, 19th Floor,  
6 U.S. District Court, 450 Golden Gate, San Francisco, California.

7           B.       The Court is expecting the length of the trial to not exceed 3 court days.

8           **III. PRETRIAL CONFERENCE**

9           A Final Pretrial Conference shall be held on January 18, 2024, at 2:00 p.m., in Courtroom  
10 8, 19th Floor. Lead trial counsel for each party shall attend.

11           A.       At least seven days prior to date of the Final Pretrial Conference the parties shall do  
12 the following:

13           1.       In lieu of preparing a Joint Pretrial Conference Statement, the parties shall  
14 meet and confer in person, and then prepare and file a jointly signed Proposed Final Pretrial Order  
15 that contains: (a) a brief description of the substance of claims and defenses which remain to be  
16 decided; (b) a statement of all relief sought; (c) all stipulated facts; (d) a joint exhibit list in  
17 numerical order, including a brief description of the exhibit and Bates numbers, a blank column  
18 for when it will be offered into evidence, a blank column for when it may be received into  
19 evidence, and a blank column for any limitations on its use; and (e) each party's separate witness  
20 list for its case-in-chief witnesses (including those appearing by deposition), including, for all such  
21 witnesses (other than party plaintiffs or defendants), a short statement of the substance of his/her  
22 testimony and, separately, what, if any, non-cumulative testimony the witness will offer. For each  
23 witness, state an hour/minute time estimate for the direct examination (only). Items (d) and (e)  
24 should be submitted as appendices to the proposed order. The proposed order should also state  
25 which issues, if any, are for the Court to decide, rather than the jury.

26           2.       File a joint set of proposed instructions on substantive issues of law  
27 arranged in a logical sequence. If undisputed, an instruction shall be identified as "Stipulated  
28 Instruction No. \_\_\_\_\_ Re \_\_\_\_\_," with the blanks filled in as appropriate. If disputed, each

1 version of the instruction shall be inserted together, back to back, in their logical place in the  
2 overall sequence. Each such disputed instruction shall be identified as, for example, "Disputed  
3 Instruction No. \_\_\_\_ Re \_\_\_\_\_ Offered by \_\_\_\_\_," with the blanks filled  
4 in as appropriate. All disputed versions of the same basic instruction shall bear the same number.  
5 Any modifications to a form instruction must be plainly identified. If a party does not have a  
6 counter version and simply contends that no such instruction in any version should be given, then  
7 that party should so state (and explain why) on a separate page inserted in lieu of an alternate  
8 version. With respect to form preliminary instructions, general instructions, or concluding  
9 instructions, please simply cite to the numbers of the requested instructions in the current edition  
10 of the Ninth Circuit Model Jury Instructions. Other than citing the numbers, the parties shall not  
11 include preliminary, general, or concluding instructions in the packet.

12                   3. File a separate memorandum of law in support of each party's disputed  
13 instructions, if any, organized by instruction number.

14                   4. File a joint set of proposed voir dire questions supplemented as necessary  
15 by separate requests.

16                   5. File trial briefs on any controlling issues of law.

17                   6. File proposed verdict forms, joint or separate.

18                   7. File and serve any objections to exhibits.

19                   8. File a joint simplified Statement of the Case to be read to the jury during  
20 voir dire as part of the proposed jury instructions. Unless the case is extremely complex, this  
21 statement should not exceed one page.

22                   B. Any motions in limine shall be submitted as follows: at least twenty (20) calendar  
23 days before the conference, the moving party shall serve, but not file, the opening brief. At least  
24 ten (10) calendar days before the conference, the responding party shall serve the opposition.  
25 There will be no reply. When the oppositions are received, the moving party should collate the  
26 motion and the opposition together, back-to-back, and then file the paired sets at least seven (7)  
27 calendar days before the conference. Each motion should be presented in a separate memorandum  
28 and properly identified, for example, "Plaintiff's Motion in Limine No. 1 to Exclude . . ." Each

1 party is limited to bringing five motions in limine. The parties are encouraged to stipulate where  
2 possible, for example, as to the exclusion of witnesses from the courtroom. Each motion should  
3 address a single, separate topic, and contain no more than seven pages of briefing per side.

4 C. Hard-copy courtesy copies of the above documents shall be delivered by NOON  
5 the day after filing. The Joint Proposed Final Pretrial Order, jury instructions, and verdict form  
6 shall be submitted via e-mail as attachments to JSCpo@cand.uscourts.gov. The Court requests that  
7 all hard-copy submissions be three-hole-punched.

#### 8 **IV. PRETRIAL ARRANGEMENTS**

9 A. Should a daily transcript and/or real-time reporting be desired, the parties shall  
10 make arrangements with Rick Duvall, Supervisor of the Court Reporting Services, at  
11 (415) 522-2079, at least ten (10) calendar days prior to the trial date.

12 B. During trial, counsel may wish to use overhead projectors, laser-disk/computer  
13 graphics, poster blow-ups, models, or specimens of devices. Equipment should be shared by all  
14 counsel to the maximum extent possible. The Court provides no equipment other than an easel.  
15 The United States Marshal requires a court order to allow equipment into the courthouse. For  
16 electronic equipment, parties should be prepared to maintain the equipment or have a technician  
17 handy at all times. The parties shall tape extension cords to the carpet for safety. The parties may  
18 work with the deputy clerk, Ada Means (415-522-2015), on all courtroom-layout issues.

#### 19 **SCHEDULING**

20 Trial will be conducted from 8:30 a.m. to 2:30 or 3:00 p.m., depending on the availability  
21 of witnesses, Monday through Friday. Counsel must arrive by 8:15 a.m., or earlier as needed, for  
22 any matters to be heard out of the presence of the jury. The jury will be called at 8:30 a.m.

#### 23 **THE JURY**

24 In civil cases, there are no alternate jurors and the jury is selected as follows:  
25 Eighteen to twenty jurors are called to fill the jury box and the row in front of the bar, and are  
26 given numbers (1 through 20). The remaining potential jurors will be seated in the public benches.  
27 Hardship excuses will usually be considered at this point. The Court will then have each juror  
28 orally answer a set of written questions (attached to this Order as Exhibit A) and will itself ask

questions of those in the box and in the front of the bar. Counsel may then conduct a limited voir dire. Challenges for cause will then be addressed out of the presence of the potential jurors. The Court will consider whether to fill in the seats of the stricken jurors. If so, questions will be asked of the additional jurors and cause motions as to them will be considered. After a short recess, each side may exercise its allotment of peremptory challenges out of the presence of the potential jurors. The eight (or such other size as will constitute the jury) surviving the challenge process with the lowest numbers become the final jury. For example, if the plaintiff strikes 1, 5, and 7 and the defendant strikes 2, 4, and 9, then 3, 6, 8, 10, 11, 12, 13, and 14 become the final jury. If more (or fewer) than eight jurors are to be seated, then the starting number will be adjusted. So too if more than a total of six peremptories are allowed. Once the jury selection is completed, the jurors' names will be read again and they will be seated in the jury box and sworn. The Court may alter this procedure in its discretion and after consultation with the parties.

## WITNESSES

At the close of each trial day, all counsel shall exchange a list of witnesses for the next two full court days and the exhibits that will be used during direct examination (other than for impeachment of an adverse witness). Within 24 hours of such notice, all other counsel shall provide any objections to such exhibits and shall provide a list of all exhibits to be used with the same witness on cross-examination (other than for impeachment). The first notice shall be exchanged prior to the first day of trial. All such notices shall be provided in writing.

## EXHIBITS

A. Prior to the Final Pretrial Conference, counsel must meet and confer in person to consider all exhibit numbers and objections and to eliminate duplicate exhibits and confusion over the precise exhibit.

B. Use numbers only, not letters, for exhibits, preferably the same numbers as were used in depositions. Blocks of numbers should be assigned to fit the need of the case (e.g., Plaintiff has 1 to 100, Defendant A has 101 to 200, Defendant B has 201 to 300, etc.). A single exhibit should be marked only once. If the plaintiff has marked an exhibit, then the defendant should not re-mark the exact document with another number. Different versions of the same

1 document, e.g., a copy with additional handwriting, must be treated as different exhibits with  
2 different numbers. To avoid any party claiming "ownership" of an exhibit, all exhibits shall be  
3 marked and referred to as "Trial Exhibit No. \_\_\_\_\_," not as "Plaintiff's Exhibit" or "Defendant's  
4 Exhibit."

5 C. The exhibit tag shall be in the following form:

6	UNITED STATES DISTRICT COURT
7	NORTHERN DISTRICT OF CALIFORNIA
8	<b>TRIAL EXHIBIT 100</b>
9	Case No. _____
10	Date Entered _____
11	By _____
12	Deputy Clerk

13 Counsel preferably will make the tag up in a color that will stand out (yet still allow for  
14 photocopying), but that is not essential. Place the tag on or near the lower right-hand corner or, if a  
15 photograph, on the back. Counsel should fill in the tag but leave the last two spaces blank. The  
16 parties must jointly prepare a single set of all trial exhibits that will be the official record set to be  
17 used with the witnesses and on appeal. Each exhibit must be tagged, three-hole-punched, separated  
18 with a label divider identifying the exhibit number, and placed in 3-ring binders. Spine labels  
19 should indicate the numbers of the exhibits that are in the binders. Each set of exhibit binders  
20 should be marked as "Original." Deposit the exhibits with the deputy clerk seven (7) days before  
21 the Pretrial Conference.

22 D. Counsel must consult with each other and with the deputy clerk at the end of each  
23 trial day and compare notes as to which exhibits are in evidence and any limitations thereon. If  
24 there are any differences, counsel should bring them promptly to the Court's attention.

25 E. The parties shall provide the Court with one official set of the record exhibits seven  
26 (7) days before the Pretrial Conference. Each exhibit must be separated with a label divider  
27 identifying the exhibit number. Spine labels should indicate the numbers of the exhibits that are in

1 the binders. At trial, the parties shall provide individual witness exhibit binders which contain all  
2 the exhibits the parties expect to use with the witness. The parties shall provide two copies of each  
3 witness binder: one for the witness and one for the Court.

4 F. Before the closing arguments, counsel must confer with the deputy clerk to make  
5 sure the exhibits in evidence are in good order.

6 G. Exhibit notebooks for the jury will not be permitted without prior permission from  
7 the Court. Publication must be by poster blow-up, overhead projection, or such other method as is  
8 allowed in the circumstances. It is permissible to highlight, circle or underscore in the  
9 enlargements as long as it is clear that it was not on the original.

10 **CHARGING CONFERENCE**

11 As the trial progresses and the evidence is heard, the Court will fashion a comprehensive  
12 set of jury instructions to cover all issues actually being tried. Prior to the close of the evidence,  
13 the Court will provide a draft final charge to the parties. After a reasonable period for review, one  
14 or more charging conferences will be held at which each party may object to any passage, ask for  
15 modifications, or ask for additions. Any instruction request must be renewed specifically at the  
16 conference or it will be deemed waived, whether or not it was requested prior to trial. If, however,  
17 a party still wishes to request an omitted instruction after reviewing the Court's draft, then it must  
18 affirmatively re-request it at the charging conference in order to give the Court a fair opportunity  
19 to correct any error. Otherwise, as stated, the request will be deemed abandoned or waived.

20 **IT IS SO ORDERED.**

21 Dated: June 24, 2022

  
22 \_\_\_\_\_  
23 JACQUELINE SCOTT CORLEY  
24 United States Magistrate Judge  
25  
26  
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28

1 **EXHIBIT A**

2 **BACKGROUND**

3 HAVE EACH OF THE 20 PROSPECTIVE JURORS ANSWER ALOUD THE  
4 GENERAL BACKGROUND QUESTIONS ON THE SHEET THAT HAS BEEN HANDED  
5 OUT.

6 1. Please state your name:

7 2. Please state the city in which you live:

8 a. How long have you lived there?

9 b. Where else have you lived in the past 5 years?

10 3. What is your current occupation?

11 a. How long have you been so employed?

12 b. What are your previous occupations, if any?

13 c. Have you or any member of your family been employed by a law firm?

14 4. Please give us the following information about your family:

15 a. Are you married?

16 1. If so, what is your spouse's current occupation and by whom is your  
17 spouse employed?

18 b. Do you have any children?

19 If so:

20 1. How many?

21 2. What ages?

22 3. What are their occupations, if any?

23 5. Are there any other adults living in your household?

24 a. If so, how are they related to you, and what is their age and occupation?